

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.17.127 related to prevailing)	PROPOSED AMENDMENT
wage rates for public works projects -)	
building construction services, heavy)	
construction services, highway)	
construction services, and)	
nonconstruction services)	

TO: All Concerned Persons

1. On March 20, 2009, at 1:00 p.m., the Department of Labor and Industry (department) will hold a public hearing to be held in the first floor conference room (room 104), 1327 Lockey Avenue, Walt Sullivan Building, Helena, MT to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on March 13, 2009, to advise us of the nature of the accommodation that you need. Please contact the Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 6518, Helena, MT 59604-6518; telephone (406) 444-1741; fax (406) 444-7071; TDD (406) 444-0532; or e-mail MikeSmith@mt.gov.

3. The rule proposed to be amended provides as follows, stricken material interlined, new material underlined:

24.17.127 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

(1) through (1)(d) remain the same.

(e) The current building construction services rates are contained in the ~~2008~~ 2009 version of "The State of Montana Prevailing Wage Rates - Building Construction Services" publication.

(f) The current nonconstruction services rates are contained in the ~~2007~~ 2009 version of "The State of Montana Prevailing Wage Rates - Nonconstruction Services" publication.

(g) The current heavy and highway construction services rates are contained in the ~~2008~~ 2009 revised version of "The State of Montana Prevailing Wage Rates - Heavy and Highway Construction Services" publication.

(2) and (3) remain the same.

AUTH: 2-4-307, 18-2-409, 18-2-431, 39-3-202, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-406, 18-2-411, 18-2-412, 18-2-422, 18-2-431, MCA

REASON: There is reasonable necessity to amend ARM 24.17.127 to update various prevailing wage rates. Payment of prevailing wage rates is required in most public works contracts by 18-2-422, MCA.

There is reasonable necessity to amend the prevailing wages for building construction services, which were last updated in 2008. Pursuant to 18-2-401, MCA, the department conducts an annual survey of wages for building construction services. There is also reasonable necessity to update the prevailing wage rates for heavy and highway construction services to track with current federal Davis-Bacon Act heavy construction services rates and highway construction services rates.

There is reasonable necessity to amend the prevailing wage rates for nonconstruction services, which were last updated in 2007. Pursuant to 18-2-401, MCA, the department conducts a biennial survey of wages for nonconstruction services.

The department is proposing the rates at this time following completion of its wage surveys, in order to have as current a set of rates as is feasible. The proposed wage rates will apply to public works projects let for bid on or after the effective date of the rate changes.

4. A copy of the proposed 2009 publications, identified as "preliminary building construction rates", "preliminary heavy and highway construction rates", and "preliminary nonconstruction rates", are available and can be accessed on-line via the internet at: www.mtwagehourbopa.com

5. A printed version of the proposed 2009 publications is also available by contacting Mike Smith, at the address, e-mail, or telephone numbers listed in paragraph 2.

6. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Labor Standards Bureau, Employment Relations Division, Department of Labor and Industry, Attn: Mike Smith, P.O. Box 6518, Helena, MT 59604-6518; fax (406) 444-7071; TDD (406) 444-0532; or e-mailed to MikeSmith@mt.gov, and must be received no later than 5:00 p.m., March 27, 2009.

7. An electronic copy of this Notice of Public Hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings Section. The department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical

problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program or areas of law the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1327 Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

10. The department's Hearings Bureau has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER

Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 17, 2009